



MICHIGAN

To: Honorable Members of the Senate Judiciary Committee

From: Charles Owens, State Director 

Date: December 8, 2015

RE: HB 4713 – “Mens Rea” Standard for Unintentional Regulatory Violations

We are writing to ask your support for House Bill 4713 that would address the problem of criminal sanctions for minor regulatory mistakes. The bill was reported out of the House Oversight and Ethics Committee and the House chamber with a unanimous vote of support.

The legislation, sponsored by State Representative Ed McBroom (108th District), would provide a defense to a person accused of a crime due to the unintentional violation of a regulation or rule. Specifically, the legislation would establish a default “mens rea” standard that would require the state agency pursuing the violation to prove that the violator had criminal intent in breaking the rule.

This is a serious concern for many small – family owned businesses that find themselves facing a criminal prosecution for minor paperwork violations or running afoul of a rule or regulation without any knowledge or intent to do wrong. When you consider the absolute avalanche of rules and regulations heaped on a business owner by federal, state and local governments it should be no surprise that honest mistakes happen.

Small business is more susceptible to violating a rule or regulation as they do not have the staff to keep up - and in compliance with - the rules and regulations that seem to proliferate in today’s business environment. As an example of the magnitude of regulatory overload, for 2015 Year to Date there were 2,975 final rules published, 2079 proposed rules and 6,245 rule notices for a total of 11,319 documents added to the Federal Register website. Remember that this does not include the additional layers of state and local regulation.

In addition to being unfair and unjust, pursuing criminal prosecution and penalties against a small business owner for an honest mistake is a waste of taxpayer money.

Thank you for your support of small business.